

### **REMARKS**

The Office Action dated December 21, 2005 has been carefully considered. Claims 104-112 and 114-138 are in this application.

Claims 112 and 114-138 are allowed. Claim 104 is rejected over the prior art. Claims 105-111 are objected to as being dependent upon a rejected base claim.

#### **35 U.S.C. § 102**

The Examiner rejected claim 104 as being anticipated by U.S. Pat. No. 5,635,358 to Wilding et al. Applicant traverses the rejection.

The Examiner stated that Wilding et al. discloses a device that is equivalent to the enucleation MEMS device of claim 104. The Examiner stated that Wildings et al. teaches a substrate (14) with at least one well (22) having an enucleation penetration member (24) and an enucleation pit (16 or 16b).

Importantly, the Examiner failed to take notice of the wording in claim 104 that the well for holding a cell comprises the enucleation penetration member *and the enucleation pit*. The Wilding et al. device never shows or discloses that component 16 (16a, 16b, 16c or 16d) is a component of the “well” (22). The well (22) is shown in Figs. 1, 2, 3, 4, and 7 as being physically displaced from component 16. Furthermore component 16 is not described in such a way as to be equivalent to an enucleation pit for isolating the nucleus from the cell. Components 16 are described as being entry ports (Col. 5, line 1) and inlet (16a) for sample fluid (Col. 8, line 61) and as being ports to direct fluid in the flow system (Col. 9, lines 59-65). Even in initially describing the device, Wilding et al. teach that the inlet port (16) is separated via a flow channel from the fluid handling region (which, comprises cell handling region 22) (Col. 2, lines 42-61). Since Wilding et al. teach that component 22 does not comprise component 16, the Wilding et al device is not equivalent to the enucleation MEMS device of claim 104. For this reason, Applicant respectfully requests that the rejection of claim 104 be withdrawn.

#### **Objections**

The Examiner objected to claims 105-111 as being dependent upon a rejected base claim. Applicants believe that in light of the argument presented above, the rejection of claim 104

should be withdrawn, and this would moot the objection to claims 105-111. Alternatively, if the Examiner presents reasons that claim 104 is nonetheless not patentable, Applicant is willing to amend claims 105-111 to overcome the objection.

In view of the foregoing, Applicants submit that all pending claims are in condition for allowance and request that all claims be allowed. The Examiner is invited to contact the undersigned should he believe that this would expedite prosecution of this application. It is believed that no fee is required. The Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 13-2165.

Respectfully submitted,

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